

REMARKS

By this amendment no claims have been amended, cancelled, or added. No new matter has been added. Accordingly, claims 1-61, 71-83, 85-98, 101-121 remain pending in this reissue application. Applicant requests the timely reexamination and allowance of this reissue application.

Period for Reply

In the Office Action mailed April 2, 2007 ("the Office Action"), the application was indicated as in condition for allowance expect for formal matters and prosecution was closed in accordance with the practice under *Ex parte Quayle*. A shortened statutory period for reply to the action was set to expire two months from the mail date of the Office Action. Applicant respectfully submits that closing of prosecution under *Ex parte Quayle* was inappropriate because of the rejection of claims 1-11, 48-54, 56-61, 71-83, 85-98, and 101-121 as being based upon a defective reissued declaration under 35 U.S.C. § 251 is more than a matter of form. See MPEP § 1444 II. (specifically Examiner Note 5).

Accordingly, Applicant believes that the shortened period for reply should have been set to expire three months from the mail date of the Office Action. Therefore, Applicant has concurrently filed herewith a petition for a three month extension of time to enter this reply. However, if any additional extensions of time are necessary to enter this reply, Applicant hereby petitions for any such extensions of time and authorizes that any additional fees necessary to enter this amendment be charged to Deposit Account 06-0916.

Interview Summary

Initially, Applicant would like to thank the Examiner for the courtesy of the telephonic interview with Applicant's undersigned representative on May 15, 2007. During the interview, the Examiner indicated that Applicant's arguments set forth in the Reply mailed March 12, 2007 ("the March Reply") with respect to the rejection of claim 103 under 35 U.S.C. § 112, second paragraph as being indefinite were persuasive. The Examiner further indicated that the newly issued rejection of claims 103-106 and 120 under 35 U.S.C. § 112, second paragraph could be overcome with appropriate amendments to the drawings and/or specification to cure the objections of the drawings under 37 C.F.R. § 1.83(a) and the objections of the specification under MPEP § 608.01(o), and 37 C.F.R. § 1.75(d)(1) as set forth in the Office Action.

Allowable Subject Matter

Applicant would like to thank the examiner for indicating in the Office Action that claims 1-11, 48-54, 56-61, 71-83, 85-98, and 101-121 would be allowable if an appropriate supplemental oath/declaration under 37 C.F.R. 1.175(b)(1) is filed.

Reissue Oath/Declaration

In the Office Action, claims 1-22, 48-54, 56-61, 71-83, 85-98, and 101-121 were rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. The Office Action further indicated that receipt of an appropriate supplemental oath/declaration under 37 C.F.R. 1.175(b)(1) would overcome this rejection. Applicant has filed a supplemental reissue declaration in compliance with 37 C.F.R. 1.175(b)(1) herewith and, accordingly, requests that the rejection under 35 U.S.C. § 251 be withdrawn.

Objections to the Drawings and Specification

The drawings were objected to under 37 C.F.R. § 1.83(a) for failing to show the “control circuit” recited in claim 103. The specification was objected to under MPEP § 608.01(o) and 37 C.F.R. § 1.75(d)(1) as failing to provide proper antecedent basis for the “control circuit” recited in claim 103. Applicant has amended the specification to provide antecedent basis for the term “control circuit.” Specifically, Applicant has amended line 4 of column 4 to explicitly recite “control circuit” in reference to the pressurized oil distribution circuit generally indicated by 30. Additionally, Fig. 7 clearly shows distribution circuit 30 and, thus, clearly shows the “control circuit.” Accordingly, Applicant requests that the objections to the drawings and specification be withdrawn.

Indefinite Rejections

In the Office Action, claims 103-106 and 120 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, claim 103 was rejected as allegedly being unclear regarding the recitation of “control circuit” and to what “control circuit” refers. See paragraphs 4 and 5 on page 3 of the Office Action. Applicant has amended the specification herein as set forth above. Accordingly, Applicant submits that claim 103 is definite and request the rejection of claims 103-106 and 120 under 35 U.S.C. § 112, second paragraph be withdrawn.

Conclusion

In view of the above, Applicant respectfully submits that pending claims 1-61, 71-83, 85-98, 101-121 are in condition for allowance. Accordingly, Applicant respectfully requests reconsideration and reexamination of this reissue application and timely allowance of the pending claims.

The Office Action contains characterizations of the claims with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization of the Office Action.

If the Examiner believes a telephone conversation might advance prosecution, the Examiner is invited to call Applicant's undersigned representative at 202-408-4397.

Please grant any additional extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 2, 2007

By: 

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